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Filing date: **07/19/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	William Gorski		
Entity	Individual	Citizenship	United States
Address	815 Bluff Street Glencoe, IL 60022 UNITED STATES		

Attorney information	James P. Muraff Neal, Gerber & Eisenberg LLP Two North LaSalle Street Suite 1700 Chicago, IL 60602 UNITED STATES mhall@ngelaw.com, jmuraff@ngelaw.com, khinner@ngelaw.com Phone:312.269.8000
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Registration Subject to Cancellation

Registration No	3877767	Registration date	11/16/2010
Registrant	Morris, Sara Batterson 2521 Norfolk Rd Orlando, FL 32803 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2009/07/20 First Use In Commerce: 2010/03/01

All goods and services in the class are cancelled, namely: Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and business management consultancy; Advertising and commercial information services, via the Internet; Advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and promoting the goods and services of a visual artist; Advertising and promotion services and related consulting; Advertising and promotional services; Advertising and publicity services; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Advertising by transmission of on-line publicity for third parties through electronic communications networks; Advertising in periodicals, brochures and newspapers; Advertising services; Advertising services, namely, creating corporate and brand identity for others; Advertising services, namely, promoting and marketing the goods and services of others in the field of upscale choices such as cultural events, restaurants, shopping, and travel via print and electronic media; Advertising services, namely, promoting and marketing the goods and services of others through all public communication means; Advertising services, namely, promoting the brands, goods and services of others; Advertising via electronic media and specifically the Internet; Advertising, including on-line advertising on a computer network; On-line advertising services for others; Organization of events, exhibitions, fairs and shows for commercial, promotional and advertising purposes; Placing advertisements for others; Preparing and placing advertisements for others; Preparing and placing of advertisements; Promoting the

goods and services of others by preparing and placing advertisements in an electronic magazine accessed through a global computer network; Promoting, advertising and marketing of the on-line web sites of others; Promoting, advertising and marketing the on-line databases and electronic publications of others; Promotion, advertising and marketing of on-line websites; Promotional services, namely, distribution of advertising flyers, coupons, catalogs and promotional items of others; Providing a searchable on-line advertising website and guide featuring the goods and services of other vendors via the Internet; Providing a searchable online advertising guide featuring the goods and services of online vendors; Providing advertising service to distribute advertisements for display on Internet, namely, in websites, social conversations over the Internet, emails, microblogs, blogs, electronic messages, instant messages, text messages, multimedia messages, social networks, status updates, forums, electronic bulletin boards; Providing and rental of advertising space on the Internet; Providing space at a web site for the advertisement of the goods and services of others

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	PetitiontoCancel-BRITE.pdf (6 pages)(17276 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/James P. Muraff/
Name	James P. Muraff
Date	07/19/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of)	
Registration No. 3,877,767)	
)	
WILLIAM GORSKI,)	
)	Cancellation No. _____
Petitioner,)	
v.)	
)	
SARA BATTERSON MORRIS)	
)	
Respondent.)	

PETITION FOR CANCELLATION

This Petition for Cancellation is submitted in the matter of Registration No. 3,877,767, which is owned by Sara Batterson Morris, an individual having an address of 2521 Norfolk Rd, Orlando, Florida 32803 (“Respondent”). Registration No. 3,877,767 for BRITE & Design issued on November 16, 2010 in connection with a wide variety of services in International Class 35. William Gorski, an individual having an address of 815 Bluff Street, Glencoe, IL 60022 (“Petitioner”), believes that he will be injured by the continued registration of Registration No. 3,877,767, and therefore petitions to cancel the same on the following grounds:

1. On October 8, 2010, Petitioner applied for federal registration of the trademark BRIGHT MARKETING ASSOCIATES in connection with “business marketing and consulting using advanced decision support tools in order to transform company marketing strategy, plan development, creative process/execution and organization structure to improve ROI on marketing investments” in International Class 35, Serial No. 85/148920.

2. On November 16, 2010, pursuant to 15 U.S.C. §1051(a), Registration No. 3,877,767 (the “Registration”) issued to Respondent for the mark BRITE & Design for use in

connection with “Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and business management consultancy; Advertising and commercial information services, via the Internet; Advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and promoting the goods and services of a visual artist; Advertising and promotion services and related consulting; Advertising and promotional services; Advertising and publicity services; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Advertising by transmission of on-line publicity for third parties through electronic communications networks; Advertising in periodicals, brochures and newspapers; Advertising services; Advertising services, namely, creating corporate and brand identity for others; Advertising services, namely, promoting and marketing the goods and services of others in the field of upscale choices such as cultural events, restaurants, shopping, and travel via print and electronic media; Advertising services, namely, promoting and marketing the goods and services of others through all public communication means; Advertising services, namely, promoting the brands, goods and services of others; Advertising via electronic media and specifically the Internet; Advertising, including on-line advertising on a computer network; On-line advertising services for others; Organization of events, exhibitions, fairs and shows for commercial, promotional and advertising purposes; Placing advertisements for others; Preparing and placing advertisements for others; Preparing and placing of advertisements; Promoting the goods and services of others by preparing and placing advertisements in an electronic magazine

accessed through a global computer network; Promoting, advertising and marketing of the on-line web sites of others; Promoting, advertising and marketing the on-line databases and electronic publications of others; Promotion, advertising and marketing of on-line websites; Promotional services, namely, distribution of advertising flyers, coupons, catalogs and promotional items of others; Providing a searchable on-line advertising website and guide featuring the goods and services of other vendors via the Internet; Providing a searchable online advertising guide featuring the goods and services of online vendors; Providing advertising service to distribute advertisements for display on Internet, namely, in websites, social conversations over the Internet, emails, microblogs, blogs, electronic messages, instant messages, text messages, multimedia messages, social networks, status updates, forums, electronic bulletin boards; Providing and rental of advertising space on the Internet; Providing space at a web site for the advertisement of the goods and services of others” in International Class 35.

3. The Registration has been cited in a Section 2(d) likelihood of confusion refusal to Petitioner’s pending application for the mark BRIGHT MARKETING ASSOCIATES.

4. On information and belief, Respondent is not using the mark BRITE & Design in connection with many of the registered services in interstate commerce. On information and belief, Respondent has abandoned the mark BRITE & Design within the meaning of Section 45 of the Trademark Act, 15 U.S.C. §1127. The Registration should therefore be cancelled in accordance with Section 14 of the Trademark Act, 15 U.S.C. §1064.

5. Petitioner is being and is likely to continue to be damaged by the continued registration of Respondent’s mark in that Petitioner’s application to register BRIGHT

MARKETING ASSOCIATES is being impaired by Respondent's continued registration of Registration No. 3,877,767.

6. Respondent has committed fraud by submitting a verified statement that she was using the BRITE & Design mark at the time of filing Application Serial No. 77/784696, now Registration No. 3,877,767. On information and belief, Respondent was only using the BRIGHT & Design mark on some of the listed services.

7. Respondent knew or should have known that Respondent was not using the BRITE & Design in commerce on all of the services listed in paragraph 2 above, at the time Respondent signed and filed the verified statement alleging that Respondent was actually using the BRITE & Design mark for such services.

8. Respondent knew or should have known that her verified statement that Respondent was using all of the services listed in paragraph 2 above was false. Therefore, Registration No. 3,877,767 contained a fraudulent statement regarding Respondent's actual use of the BRITE & Design mark in connection with the specified services listed in paragraph 2 above - a statement required of Respondent in seeking registration under 15 U.S.C. §1051(a). Such fraud renders the Registration No. 3,877,767 invalid and void and is an independent ground for cancellation.

WHEREFORE, Petitioner requests that Registration No. 3,877,767 be cancelled and that this Petition for Cancellation be granted.

Petitioner requests that the requisite filing fee be charged to the deposit account of Neal, Gerber & Eisenberg LLP, Account No. 502261.

Respectfully submitted,

Date: July 19, 2011

By: /James P. Muraff/
One of the Attorneys for
William Gorski
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CERTIFICATE OF TRANSMISSION

I, James P. Muraff, hereby certify that the foregoing *Petition for Cancellation* is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: July 19, 2011

By: /James P. Muraff/
One of the Attorneys for
William Gorski
NEAL, GERBER & EISENBERG LLP
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Ph: 312-269-8000

CERTIFICATE OF SERVICE

I, James P. Muraff, an attorney, state that, pursuant to 37 CFR §§ 2.111 and 2.119, I caused a copy of the foregoing *Petition for Cancellation* to be served upon:

Sara Batterson Morris
2521 Norfolk Rd
Orlando, FL 32803

via First Class U.S. Mail, postage pre-paid,

and,

Travis R. Hollifield
Hollifield Legal Centre
147 E. Lyman Avenue - Suite C
Winter Park, Florida 32789

via facsimile to (407) 599-9591, both on this 19th day of July 2011

/James P. Muraff/
James P. Muraff